

RESOLUTION NO. 4306

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONGVIEW, TEXAS, AUTHORIZING AND DIRECTING THE CITY MANAGER OR THE CITY MANAGER'S DESIGNEE TO EXECUTE A MEMORANDUM OF AGREEMENT BETWEEN THE EAST TEXAS COUNCIL OF GOVERNMENTS AND THE CITY OF LONGVIEW RELATED TO BUS MAINTENANCE SERVICES PROVIDED TO ETCOG'S REGIONAL TRANSIT FLEET; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION WAS PASSED COMPLIED WITH THE TEXAS OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City of Longview (the "City") and the East Texas Council of Governments desire to ensure reliable transit services are provided to the East Texas region; and,

WHEREAS, the Longview public transit system currently has bus maintenance service for its fleet; and,

WHEREAS, the East Texas Council of Governments is seeking adequate and reliable bus maintenance service for its regional transit fleet; and,

WHEREAS, the Longview public transit system currently has capacity to provide bus maintenance service to other transit services; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LONGVIEW, TEXAS:

Section 1. That the findings set out in the preamble to this resolution are hereby in all things approved and adopted.

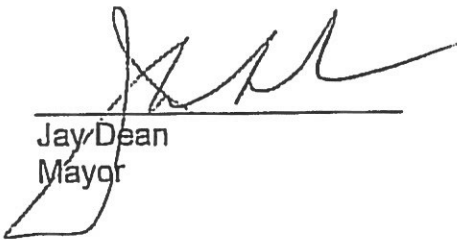
Section 2. That the City Manager, the City Manager's designee and/or other official of the City as shall be required, are hereby authorized and directed to execute a Memorandum of Agreement between the City of Longview and the East Texas Council of Governments (ETCOG) to allow the City of Longview and/or Longview Transit to provide bus repair and maintenance services to the regional transit fleet managed by ETCOG and to establish a means for reimbursement for such services.

Section 3. That any contract or other documents executed pursuant to the authority granted in this resolution must be in a form approved by the City Attorney.

Section 4. That the meeting at which the aforesaid agreement was authorized was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code Chapter 551.

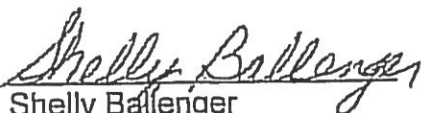
Section 5. That this resolution shall be effective immediately from and after its date of passage.

PASSED AND APPROVED this 19th day of May, 2011.



Jay Dean
Mayor

ATTEST:



Shelly Ballenger
City Secretary

APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to be 'JF', written over a horizontal line.

Jim Finley
City Attorney

R TRANSIT MOA BUS MAINTENANCE 5-19-11



MEMORANDUM OF AGREEMENT

COUNTY OF GREGG

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STATE OF TEXAS

THIS AGREEMENT is made by and between the **CITY OF LONGVIEW**, hereinafter referred to as "City," and the **EAST TEXAS COUNCIL OF GOVERNMENTS**, hereinafter referred to as "ETCOG".

I. RECITALS

ETCOG desires to enter into an Agreement with City whereby City shall provide maintenance services for public transportation vehicles owned by ETCOG and operating within the geographical area served by ETCOG as part of the Regional Transportation Coordination Plan. The services are set forth in Article II of this Agreement.

II. SCOPE OF SERVICES

ETCOG agrees to assign certain fleet management and vehicle maintenance authority to City for the purpose of preventive maintenance, repair, rebuild, or modifications, as described in the attached Exhibit "A," to ETCOG public transportation vehicles, and shall pay for services, parts and supplies provided pursuant to this Agreement as set forth in Exhibit "A."

III. TERM

The initial term of this Agreement shall commence on the date that this Agreement is signed by the last party to sign this Agreement as evidenced by the date given with each signature hereto. The initial term of this Agreement shall end on September 30, 2011. Thereafter, this Agreement shall automatically renew each year for an additional one-year term unless either party provides advance written notice to the other party that this Agreement will not renew. In addition to any other authority to terminate this Agreement, either party can terminate this Agreement at any time after giving at least 90 days' advance written notice to the other party hereto.

IV. CONSIDERATION

In consideration of ETCOG fully and faithfully complying with all terms, provisions and stipulations of this Agreement, City undertakes, covenants and agrees to service the maintenance needs of public transportation vehicles owned by ETCOG and operating within ETCOG's service area. The scope of these maintenance services and ETCOG's payment obligations under this Agreement are further detailed in Exhibit "A" which is attached hereto and incorporated herein by this reference. Any party making payments pursuant to this Agreement must make those payments from current revenues available to the paying party. The parties to this Agreement understand and agree that any or all of the services to be provided by City pursuant to this Agreement may be provided by Longview Transit Management, Inc., by City employees, or by such other persons as the City, in its discretion, shall deem appropriate.

V. MISCELLANEOUS

All exhibits described in this Agreement are attached hereto and incorporated herein by reference for all purposes.

Misspelled words in this Agreement shall be read so as to have the meaning apparently intended by the parties.

The obligations and undertakings of each of the parties to this Agreement shall be performable at Longview, Gregg County, Texas. Venue for any action arising hereunder shall lie exclusively in Gregg County, Texas, for actions in state court and in the Eastern District of Texas, Tyler Division, for actions in federal court.

The laws of the State of Texas govern all of this Agreement.

This Agreement constitutes the entire agreement between City and ETCOG and all negotiations and all understandings between the parties are merged herein.

This Agreement can be supplemented and/or amended only by a dated written document executed by both ETCOG and City.

ETCOG shall not assign or transfer any right or interest in the Agreement, in whole or in part, without prior written approval of City.

If any provision of this Agreement is declared or found to be illegal, unenforceable or void, then both parties hereto shall be relieved of all obligations arising under such provision, but only to the extent that such provision is illegal, unenforceable or void, it being

the intent and agreement of the parties that this Agreement shall be deemed amended by modifying such provision to the extent necessary to make it legal and enforceable while preserving its intent or, if that is not possible, by substituting therefor another provision that is legal and enforceable and achieves the same objective.

Any term or condition of this Agreement or the breach of any such term or condition may be waived only by the express, written consent of both parties hereto. Unless specified otherwise in writing, the waiver of any breach of a term or condition of this Agreement does not waive any other breach of that term or condition or any breach of any other term or condition of this Agreement.

The parties agree that this Agreement shall not be construed in favor of or against any party on the basis that the party did or did not author this Agreement.

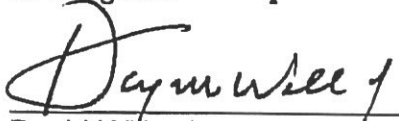
This Agreement and any related documents and any amendments hereto or thereto may be executed in counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

This Agreement is made pursuant to and shall be subject to the provisions of the Interlocal Cooperation Act (Chapter 791 of the Texas Government Code).

This Agreement shall bind, and the benefits hereof shall inure to the respective parties hereto, their legal representatives, executors, administrators, successors, and assigns.

City of Longview

By:



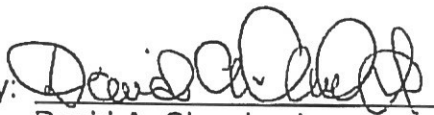
David Willard
City Manager

Date:

5/23/11

East Texas Council of Governments

By:



David A. Cleveland
Executive Director

Date:

3-14-11

EXHIBIT "A"

ETCOG is the rural public transportation provider in the East Texas region. ETCOG owns approximately 48 vehicles in the rural fleet and provides public transportation services within a 10,000-square-mile region. As part of the Regional Coordination Plan developed by the Regional Transportation Coordination Planning Steering Committee, the East Texas Council of Governments will coordinate maintenance services for their regional fleet with City.

As part of this Agreement, ETCOG shall assign maintenance of applicable vehicles to City for the purpose of preventive maintenance, repair, rebuild, or modifications to ETCOG-owned vehicles operated within its rural transit district. All maintenance activities performed pursuant to this Agreement shall be conducted in a manner reasonably calculated to ensure maximum vehicle availability, reliability, and safety, including participation in a loaner vehicle program.

City shall assist ETCOG in the oversight of a preventive maintenance program providing the required maintenance services as recommended by the original equipment manufacturer, including engine, transmission, air conditioning, brakes systems, suspension systems, wheelchair lift systems, and other components or systems as required to maintain ETCOG's vehicles.

City will provide maintenance services based upon the total allocated costs of performing those services each year. During the first term of this Agreement, the shop rate for services is \$50.00 per shop hour. Thereafter, the shop rate will be adjusted up or down each October 1st based upon the total allocated costs of providing maintenance services.

All parts and supplies will be provided at City's cost to purchase each part plus a price adjustment intended to approximate the allocation of other costs associated with each part. Parts will not have any mark-up allocated for any type of profit. The price adjustment for each part purchased during the first term of this Agreement will be 4.9% of the City's cost to purchase the part.

City will not perform major repairs or replacement of components without the approval of ETCOG staff for any repair over \$2,500.00. Email approval from ETCOG staff will be considered sufficient.

In the event a required repair must be sent to an outside maintenance facility, City will follow all established purchasing guidelines as required by the Federal Transportation Administration and the Texas Department of Transportation. All warranty repairs will be sent to their respective warranty centers.

Payments pursuant to this Agreement shall be made in accordance with Chapter 2251 of the Texas Government Code. City may, at its option, terminate all maintenance services in the event of a non-payment for any service if said non-payment lasts for 60 days or more after the date service was received.